IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3615 OF 2007

The State of Maharashtra ..Applicant

Vs.

Dinkar Vithal Patil and 2 ors. ..Respondents

Mr. D.P. Adsule, APP for applicant-State.

CORAM: B.H. MARLAPALLE, J.

Date : November 02, 2007.

P.C.:

1. Heard Mr. Adsule, the learned APP for the State. This is an application filed by the State seeking leave to appeal under Section 378(3) of Cr.P.C. against the order of acquittal passed by the learned 3rd Additional Sessions Judge at Kolhapur in Sessions Case No.54 of 2006. All the three accused have been acquitted of the offences under Sections 498-A and 306 read with Section 34 of IPC.

2. Based on the medical evidence, the trial court recorded a finding that Pallavi wife of accused no.1 died on account of consumption of poison "Organcchloro

insecticide Endosulfan" and thus she met a suicidal death on 12/1/2006. The prosecution examined three witnesses, PW 1 - Dr. Savant, PW 2-Ananda Nikam and PW 3 - Babasaheb Shelke. PW 1 was the complainant and father of the deceased and PWs 2 and 3 were his neighbours. In his cross-examination though he narrated two or three incidents regarding the harassment and ill-treatment suffered by the deceased at the hands of accused nos.2 and 3 on the alleged ground that the accused no.1, through was driving a tempo he was not giving any money for the household expenses, this testimony in the cross-examination was completely demolished as it did not find place in the F.I.R. PW 2 claimed before the trial court that he being the neighbour of PW 1 he had heard the deceased talking to PW 1 and describing the incident that had taken place about two years back regarding harassment and ill-treatment. The trial court was right in recording a finding that the prosecution failed to prove the offence under Section 498-A as well as under Section 306 read with Section 34 of IPC beyond a reasonable doubt against the accused. in support of its case under Section 498-A and 306 of IPC.

3. Hence, the reasoning set out in support of the acquittal order does not require reconsiderations at the hands of this court. Consequently, leave to appeal is refused and the application is rejected.

(B.H. Marlapalle,J.)